

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

February 19, 2013

Lyle W. Cayce  
Clerk

---

No. 12-40602  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SERGIO MONTOYA-JIMENEZ,

Defendant-Appellant

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:12-CR-164-1

---

Before KING, CLEMENT, and HAYNES, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Sergio Montoya-Jimenez raises an argument that he concedes is foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which held that knowledge of drug type and quantity is not an element of the offense under 21 U.S.C. § 841. The appellant's motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.

---

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.